

REMARKS

Reconsideration of all grounds of objection and rejection stated in the Office Action, and allowance of all the claims are respectfully requested in light of the above amendments and the following remarks. Claims 1-49, as shown above, remain pending herein.

(1) In accordance with the requirement in the Office Action, Applicants have changed the title of the invention, which is now entitled "APPARATUS AND METHOD FOR EXTRACTION OF DIFFERENT TYPES OF PACKETS FROM RESPECTIVE PORTIONS OF A SINGLE BUFFER."

(2) The specification has been amended to remove the cited informalities on page 24.

(3) Claims 1, 3-9, 12-15, 17-22, 24-29, 31-34, 46 and 48 stand rejected under 35 U.S.C. §102(e) in view of the Bluetooth Specification Version 1.0B, dated November 29, 1999. Applicants respectfully traverse this ground of rejection.

Applicants have clarified the claimed invention of instant claim 1 so as to recite, *inter alia*:

a single buffer having more than one portion configured for storing communication data comprising a plurality of speech samples having different numbers of data samples and more than one type of communications quality;

control circuitry coupled with the buffer and configured to generate a plurality of packets including having different amounts of communication data received from the buffer without introducing interruptions in the speech samples by switching among buffers.

Support for the above changes is clearly found in the specification at least at page 7, lines 10-15, page 14, lines 7-15, page 18, lines 15 to 22, page 23, lines 1-6 page 25, line 15-22.

It is respectfully submitted that, as disclosed by the specification at page 7, lines 3 to 9, that there is a problem in the prior art having to do with switching among buffers 11, 12 shown in Fig. 3. The switching between buffers prior to retrieve different packets to be assembled by the packet composer 15 causes interruptions in the speech samples, which typically requires a synchronous continuous data channel. Attempts to align or synchronize the delay cause by switching have not been successful.

Applicants also refer to page 81 of the "Bluetooth" reference, where Fig. 8.1 shows switches S1b, S2, between the buffers and the packet composer. It is respectfully submitted that the transmit receive routines in the Bluetooth protocol suffer from the same delay in the switching of S1b, S2b as does the prior art switches S1b, S2b shown in prior art Fig. 3 of the instant specification. In other words, the Bluetooth system still has problems associated with interruptions in the speech data, often noticed by the user in the form of clicks, missing speech, speech deformation, etc.

In contrast, in the presently claimed invention, either a single buffer (for transmit and receive) or a separate transmit buffer and a separate receive buffer are used. Portions of the buffer are set aside for different packets, and thus speech data can be transmitted to/from the packet composer *without switching between separate buffers and introducing speech interruptions*, as shown in the prior art of Fig. 3 and the Bluetooth protocol of Fig. 8.1, both of which show physical switches to get different types of packets to/from the packet composer.

Moreover, it should be noted that Applicants recite the term "seamless switching" at page 25, lines 20-22 they are not saying that physical switches are being used, as the drawings and text do not disclose switches S1, S2, etc. as in the prior art Fig 3 and Bluetooth. The "seamless switching" being referred is not a physical switch between buffers as shown in Fig. 8.1 of Bluetooth but rather receiving data from different portions of the same buffer. This seamless switching is true whether it is a single buffer for TX and RX, or separate buffers for each. Data packets are composed/decomposed by the packed composer, but in any given frame they are either transmitted or received, but not both. Thus, during transmitting, different packets from different portions are assembled seamlessly without inducing speech interruption in the data samples, and the same is true for receiving frames of different packets and storing them in different portions of a same buffer.

Applicants note that all of the base claims have been amended in part to reflect the above clarification. Reconsideration and withdrawal of this ground of rejection are respectfully requested as none of the recited elements are recited by a single reference, nor would have the claimed invention been obvious to an artisan over the disclosure of Bluetooth or a combination of Bluetooth and Guerin for that matter.

(4) Claims 2, 16, 23, 30, 37 and 45 stand rejected under 35 U.S.C. §103(a) over the Bluetooth Specification in view of Roch Andre Guerin (U.S. 6,377,546, hereinafter "Guerin"). Applicants also respectfully traverse this ground of rejection.

The combination of Bluetooth and Guerin fails to make any of the instant claims obvious to a person of ordinary skill in the art. Bluetooth is deficient for the reasons discussed above and its combination with Guerin still fails to disclose, suggest, or

provide motivation to artisan such that any of the instant claims would have been obvious to an artisan. First, Guerin is concerned with group flows of data in a router that involves isolating FIFO buffers. These buffers are managed by a control algorithm. The control algorithm introduces delay into the speech data as the buffer management module decides which packets are to be queued up for transmission. In fact, Guerin discloses that the "present invention is primarily interested in a single quality of service provider, namely the provision of rate guarantees to streams. In fact, Guerin teaches there is a checking of the size of the packet length to the buffer space, and actually drops the packet (Fig. 5a, step 56) when depending on the particular packet length.

Thus, Guerin, in combination with Bluetooth, fails to disclose or suggest a method or apparatus whereby speech samples can be sent as continuous speech data without interruption. The picking and choosing from among buffer data and the dropping of a packet according to its length all do not, in combination with Bluetooth, disclose or suggest the claimed invention. In fact, Applicants respectfully submit that the teachings of the references are not combinable, and assuming *arguendo*, even if a person of ordinary skill in the art would have had both references in front of him/her, none of the instant claims obvious in view of the combination of references. Any suggestion to modify the references must come from the combination of references themselves, and not be gleaned from Applicant's claimed invention.

In fact, Applicants respectfully submit that the MPEP discusses obviousness rejections under 35 U.S.C. §103 (a) as being exemplified by the case of *In re Fritch*, 972 F.2d 1260, 1266, 23 USPQ 2d 1780, 1783-84 (Fed. Cir. 1992), wherein the Court of Appeals for the federal Circuit held that:

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under section 103, teachings of references can be combined *only* if there is some suggestion or incentive to do so. Although couched in terms of combining teachings found in the prior art, the same inquiry must be carried out in the context of a purported obvious "modification" of the prior art. The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification.


It is respectfully submitted that the combination of references fails to make the disclosure, teaching of provide suggestion such that any of the instant claims would have been obvious to the artisan. Reconsideration and withdrawal of this ground of rejection are respectfully requested.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

Aaron Waxler
Registration No. 48,027

Date: February 2, 2004


By: Steve Cha
Attorney for Applicant
Registration No. 44,069


Mail all correspondence to:

Aaron Waxler, Registration No. 48,027
US PHILIPS CORPORATION
345 Scarborough Road
Briarcliff Manor, NY 10510
Phone: (914) 333-9608
Fax: (914) 332-0615

Certificate of Mailing Under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to MAIL STOP NON-FEE AMENDMENTS, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA. 22313 on February 2, 2004.

Steve Cha, Reg. No. 44,069
(Name of Registered Rep.)


(Signature and Date)